



## U.S. DEPARTMENT of STATE

### Haiti

#### Country Reports on Human Rights Practices - [2004](#)

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Haiti is a republic with an elected president and a bicameral legislature. The 1987 Constitution remains in force, but many of its provisions were not respected in practice. The opposition parties boycotted the 2000 presidential elections, in which Jean-Bertrand Aristide was reelected president with extremely low voter turnout. The political impasse and violence stemming from controversial results of the May 2000 legislative and local elections worsened, and despite accepting a Caribbean Community (CARICOM) plan committing the Government to create a climate of security for elections, President Aristide did not fully implement the plan. Anti-Government armed rebels along with members of the former military (FAd'H), many of whom had previously been implicated in human rights abuses, mounted a major insurgency beginning in early February, ultimately resulting in President Aristide's resignation and departure from the country on February 29. At the time of his departure, government and public security institutions hardly functioned. Boniface Alexandre, Chief Justice of the Supreme Court, assumed office as interim President in accordance with the Constitution. On March 4, a Tripartite Council was formed, consisting of one representative each from Aristide's Fanmi Lavalas Party (FL), the opposition movement's Democratic Platform, and the international community. The Tripartite Council chose a seven-member Council of Eminent Persons, with representatives from the Catholic Church, human rights groups, academia, the private sector, the opposition umbrella group Democratic Convergence, and Fanmi Lavalas, to select a new prime minister. On March 17, Gerard Latortue was installed as Prime Minister of the Interim Government of Haiti (IGOH) upon recommendation from the Council Of Eminent Persons to President Alexandre. The Constitution provides for an independent judiciary; however, under Aristide's government, it was subject to interference by the executive and legislative branches and remained largely weak and corrupt. Under the IGOH, the judicial system continued to be hampered by the weaknesses inherited from the previous government, but was not subject to interferences from other branches of the Government. The instability in the country immediately following President Aristide's departure made the justice system inoperative for a few months. During the remainder of the year, many judges feared retribution from rebels and gangs from across the political spectrum.

The Haitian National Police (HNP) has a variety of specialized units, including a crisis response unit (SWAT); a crowd control unit (CIMOs) serving Port-au-Prince and the Western department; a crowd control unit serving each of the remaining eight departments; and a small Coast Guard unit. The large and well-funded Presidential Security Unit, officially part of the HNP, had its own budget and remained administratively and functionally independent. The HNP is officially an autonomous civilian institution; under President Aristide, however, authorities did not maintain effective control of the security forces. President Aristide filled many key HNP positions with political allies and corrupt or political elements lacking experience, training, and credibility. Partisan political leaders exercised control over elements of the police and influenced it for personal or political gain. The politicization of the HNP facilitated both political violence and drug trafficking. After President Aristide's departure, the new leadership of the HNP, the sole security force in the country after the disbanding of the FAd'H in 1995, took steps to address corruption by firing 200 corrupt, inexperienced officers and inducting a new class of recruits who were cleared by human rights organizations. However, some HNP officials were implicated in corruption, kidnapping, and narcotics trafficking. Members of the HNP committed human rights abuses during the year.

In April, at the request of the interim government, the U.N. authorized a Multilateral Interim Force (MIF), made up of troops from the U.S., Canada, France, and Chile, to ensure stability until the deployment of a U.N. peacekeeping force. In April, the U.N. Security Council authorized 6,700 troops and 1,622 civilian police for the U.N. Stabilization Mission in Haiti (MINUSTAH).

The country had a market-based economy with state-controlled utilities and an estimated population of 8 million. The country suffered a sharp economic decline during the year. The International Monetary Fund estimated real gross domestic product growth of -3.8 percent for the year, after several years of near zero growth. In November, the U.N. estimated that 55 percent of the population lived on less than a dollar per day; two-thirds did not have

formal employment. The informal sector was an important component of the economy. Textiles, assembled goods, leather goods, agricultural products, and handicrafts provided limited export revenue. Inflation was approximately 20 percent for the year.

The Government's human rights record remained poor. During the year, various actors perpetrated numerous human rights abuses, particularly during the armed revolt and the authority vacuum that followed. There were credible reports of arbitrary killings by some members of the HNP, the FAd'H who helped force President Aristide's resignation, and pro-Lavalas partisans and street gangs who were suspected of being paid and armed by President Aristide and his supporters. Systematic,

state-orchestrated abuses stopped under the IGOH, but incidences of retribution killings and politically motivated violence, particularly in the provinces, continued. In the months following President Aristide's departure, there were numerous reports of human rights abuses against supporters of Aristide. Many of these were attributed to groups who acted independently of the IGOH, such as members of the former military (FAd'H), and to former members of the paramilitary organization Revolutionary Armed Front for the Progress of Haiti (FRAPH). Police officers used excessive- and sometimes deadly- force in making arrests or controlling demonstrations and rarely were punished for such acts.

Legal impunity remained a serious problem due to a weakened police force and judicial system. On January 1, the Government granted amnesty to some convicted criminals imprisoned around the country. Their release, combined with the high number of prisoners who escaped detention from police stations and the destruction of prisons around the country in the turmoil that followed Aristide's departure, created further instability. Some of those released and escaped criminals were also responsible for human rights violations during the year. Few prisons were rehabilitated, but some prisoners were re-arrested, only worsening prison conditions. Pretrial detention was a serious problem. The media were largely free and often critical of both the Aristide and the interim governments. However, most journalists practiced some form of self censorship. Child abuse, violence, and societal discrimination against women remained problems. Internal trafficking of children and child domestic labor remained problems.

On October 28, the Inter-American Commission on Human Rights (IACHR) "expressed" its concern over the series of violent confrontations that occurred between police and illegal armed gangs in Port-Au-Prince during the month of October. The Commission also noted that it had received reports of arbitrary arrests and detentions of persons and threats and acts of violence and intimidation against human rights defenders and journalists.

Several times during the year, Amnesty International (AI) published reports and issued statements that described and called for the end to a cycle of violence caused by armed groups both opposed and loyal to former President Aristide.

In November, Louis Joinet, U.N. Independent Expert on Human Rights in Haiti, remarked that the governmental presence outside of the capital was nonexistent. Joinet noted the weak and corrupt state of the justice system, and he cautioned that the HNP must follow the letter of the law in the execution of their duties, such as obtaining arrest warrants before making arrests.

In November and December, U.N. Secretary-General Kofi Annan and other foreign government officials called upon the IGOH to create a more secure environment within the country and to ensure that all detainees received full constitutional protections. The IGOH's capacity to do so remained limited at year's end.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including

#### Freedom From:

##### a. Arbitrary and Other Unlawful Deprivation of Life

Arbitrary and other unlawful deprivation of life perpetrated by state agents and others continued throughout the year. Members of the HNP continued to commit arbitrary and unlawful killings. In addition, members of illegal armed groups arbitrarily killed citizens.

On March 20, five HNP officers arrested five youths from the pro-Aristide neighborhood of La Saline in Port-au-Prince. The families of the five youths, Jean Wesly Etienne, 17, Emmanuel Deronville, 20, Monel Pierre, 23, Pierre

Dorceant, and Abel Cherenfant 24, claimed that they were leaders of popular civic organizations that supported Aristide. Human rights organizations claimed they were members of "chimere" groups (thugs) who had participated in crimes together with the police; and that the police were seeking to silence them. On March 21, their bodies, bearing signs of torture, were found near the airport. The five policemen were arrested and remained in jail awaiting trial at year's end.

On the evening of September 28, unknown assailants shot and killed two HNP officers in a pro-Lavalas area of downtown Port-au-Prince. By year's end, no one had been arrested for the killing.

There were deaths in prison during the year (see Section 1.c.).

During the year, deaths occurred during civil unrest (see Section 1.g.).

In November, AI called upon the Government to establish an independent commission of inquiry into summary executions attributed to members of the HNP (see Section 1.g.).

There were no developments in 2003 cases, including the January killings of Eric Pierre and 17-year-old John Peter Ancy Oleus in Carrefour, and the February killing of student Ronuald Cadet.

There were no developments, and none were expected, in several 2002 killings, including those of three youths from Cite Soleil, a farmer in the town of Hinche, three brothers from Carrefour, and four persons during an attack on the Las Cahobas jail.

The IGOH's investigations into the high-profile killings of journalists Jean Dominique in 2000 and Brignol Lindor in 2001 continued at year's end.

Herbert Valmond and Carl Dorelien, former FAd'H colonels convicted in absentia in 2000 for premeditated homicide in connection with the 1994 Raboteau massacre, escaped from the national penitentiary in the post-February 29 power vacuum. Their whereabouts were unknown and no progress was made in these cases at year's end.

From January through April, a security vacuum in the Northeast Artibonite seat of St. Michel de L'Attalaye resulted in violence between local government authorities, local townspeople, and members of the Resistance Front, a heavily armed anti-Aristide group not sanctioned by the Government. By April 25, three persons were dead and 163 houses burned or destroyed.

#### b. Disappearance

There were credible reports of politically motivated disappearances during the year.

On February 28, Wisly Francique, a student from Carrefour who supported the Lavalas regime, disappeared and remained missing at year's end.

On March 1, Jasmy Emmanuel disappeared after participating in a demonstration in front of the National Palace against the departure of President Aristide.

There were reports of disappearances stemming from the internal conflict (see Section 1.g.)

There were widespread kidnappings by armed criminal elements of wealthy persons throughout the year. All were resolved through the payment of ransom.

There were no developments in the disappearance cases reported in 2003, including Junior Jean, Mankes Analus, Pierre Franklin Julien, and Ordonel Paul.

#### c. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such actions; however, members of the security forces continued to violate these provisions, particularly prior to the resignation of President Aristide. Police officers used excessive and sometimes deadly force in making arrests or controlling demonstrations and rarely were punished for such acts. In January and February, pro-President Aristide gang members routinely attacked members of the opposition and university

students to prevent them from peacefully exercising their constitutional rights. Members of the HNP also used excessive force, such as shooting and using teargas, to suppress demonstrations (see section 2.b.).

Judie C. Roy, who repeatedly was tortured in various prisons during 2003 and ultimately incarcerated at the Petionville police station for "plotting against the security of the State," escaped from prison following President Aristide's departure and was not rearrested. There were no efforts made to rearrest Roy during the year.

There were no developments in the 2003 torture investigations of Joseline Desroses or Jonathan Louime.

Prison conditions worsened during the year. During the upheaval around February 29, many police stations and prisons around the country were damaged or destroyed, and most prisons were emptied of prisoners. By year's end, 14 of 21 prisons around the country were rehabilitated and rendered functional. An already burdened prison system was stressed further with fewer facilities to hold prisoners. Conditions in those facilities worsened and, due to lack of available space, minors and adults often were held in the same cell.

Prisoners and detainees continued to suffer from a lack of basic hygiene, malnutrition, poor quality health care, and, in some facilities, 24-hour confinement. Most prisons periodically suffered from lack of water, especially in the provinces. The incidence of preventable diseases such as beriberi, AIDS, and tuberculosis increased. The prison population numbered 1,941 at year's end. Approximately 95 percent of prisoners still were awaiting a judicial determination on their cases. That number did not reflect the large number of persons who were held in police stations around the country in prolonged preventive detention (*garde a vue*) for longer than the constitutionally mandated 48-hour time period.

In the initial days following President Aristide's departure, there were many reports of former military performing "police" functions by executing arrest warrants in provincial towns.

The Government's Office of Citizen Protection monitored prison conditions and offered training to prison administrators on criminal procedures, particularly the constitutional requirement limiting preventive detention to 48 hours. The U.N. Development Program (UNDP) continued technical assistance to the Department of Prison Administration (DAP), focusing on midlevel warden training and management information. The National Coalition for Haitian Rights (NCHR), a local human rights organization, actively monitored prison conditions in cooperation with the DAP, which offered a prisoners' rights awareness campaign. Both NCHR's and DAP's programs continued during the year. DAP's assistance increased after the situation stabilized in the spring.

The DAP conducted objective testing of prison physicians and nurses to exclude those who were inadequately trained. Doctors were available in the capital but were less frequently available to those incarcerated in the provinces. Nurses did not conduct daily checkups on the physical condition of inmates. Dispensary supplies were limited, and family members often had to purchase needed medication.

On December 1, an attempted prison escape by some detainees at the National Penitentiary resulted in a riot. Prison guards and special units of the HNP's CIMO and SWAT responded with excessive force; killing 7, shooting and injuring 17, and brutally beating and mistreating 29 detainees. Prisoners injured six HNP officers and burned eight prison cells.

Space permitting, male and female prisoners were held separately. Juvenile detainees were not held separately from adults.

Overcrowding prevented the separation of violent from nonviolent prisoners or convicts from those in pretrial detention. Many were incarcerated in temporary holding cells, particularly in the provinces.

The authorities freely permitted the International Committee of the Red Cross (ICRC), the Haitian Red Cross, and other human rights groups to enter prisons and police stations, monitor conditions, and assist prisoners and detainees with medical care, food, and legal aid. The Director General of the HNP and the DAP cooperated with the ICRC and the UNDP.

#### d. Arbitrary Arrest or Detention

The Constitution prohibits arbitrary arrest and detention; however, security forces continued to employ both practices. The Constitution stipulates that a person may be arrested only if apprehended during the commission of a crime, or on the basis of a written order by a legally competent official, such as a justice of the peace or

magistrate. The authorities can only execute these orders between 6:00 a.m. and 6:00 p.m. and must bring the detainee before a judge within 48 hours of arrest. In practice, officials frequently ignored these provisions. There were also instances of arrests by security forces and local officials lacking proper authority. Ex-FAd'H members and former chefs de section sometimes executed arrest warrants in under-policed rural areas, particularly in the North.

The HNP is officially an autonomous civilian institution. However, despite a cadre of competent and committed officers trained by foreign authorities, HNP officials at all levels were implicated in corruption and narcotics trafficking under the Aristide Government. The Aristide Government filled many key HNP positions with allies and corrupt or political elements lacking experience, training, and credibility. The politicization of the HNP facilitated both political violence and drug trafficking. During the year, under the IGOH, the HNP inducted one class of new recruits, all of whom were vetted by the human rights community.

The U.N. established the civilian police (CIVPOL) element of MINUSTAH to supplement the police. Once CIVPOL deployed with the HNP to conduct operations, the HNP's capacity to maintain order improved.

Certain police jurisdictions routinely disregarded the 48-hour requirement to present detainees before a judge, and some detainees were held for extended periods in pretrial detention. Police often apprehended persons without warrants, or on warrants not issued by a duly authorized official. According to AI, in some provincial towns where there was no governmental presence after February 29, the ex-FAd'H occupied police stations and detained persons, with or without warrants. The authorities frequently detained individuals on unspecified charges or pending investigation. Under President Aristide, the Government often resorted to arrest and detention on false charges or on the charge of "plotting against the security of the State," particularly in political or personal vendettas (see section 4). The situation improved under the IGOH, but several former members and supporters of the Lavalas regime who were suspected of human rights abuses, fomenting violence, or other crimes were arrested without proper warrants due to high levels of corruption in the judiciary. Detainees generally were allowed access to family members and a lawyer of their own choosing. Many detainees could not afford the services of an attorney, and the Government did not provide free counsel. Bail was available at the discretion of the investigative judge. Bail hearings are not automatic, and judges usually granted bail only for minor cases and based on compelling humanitarian grounds such as a need for medical attention.

In early May, police arrested Annette Auguste "So Anne", a self-proclaimed pro-Lavalas community organizer, in downtown Port-au-Prince and charged her with acting as the architect of the December 2003 attack on state university students in Port-au-Prince. She remained in prison at year's end.

Also in early May, HNP officers arrested without warrant Jean Maxon Guerrier, former Lavalas Mayor of the district of Delmas. The authorities failed to charge him with any crime and released him 1 week after his arrest.

On October 2, the HNP arrested without a warrant three former Lavalas parliamentarians: Former Senate President Yvon Feuille, Senator Gerard Gilles, and former Chamber of Deputies member Roudy Heriveaux. The police claimed that they caught the three openly supporting and organizing a campaign of violence by pro-President Aristide supporters in Port-au-Prince that began on September 30. The police released Gilles a few days after his arrest; however, they later charged Feuille and Heriveaux with acting as the intellectual authors of the October campaign of violence in Port-au-Prince. On December 24, a judge granted them a provisional release pending the completion of the investigation of the charges against them.

On October 13, police went to the residence of Father Gerard Jean-Juste, a well-known Catholic priest and pro-Aristide activist, in an effort to question him on possible involvement in a campaign of violence. Father Jean-Juste was uncooperative, and the police arrested him without warrant. The police held him for 1 week, without a judicial determination, on suspicion of "posing a threat to public order." On October 20, the State Prosecutor formally charged Father Jean-Juste with "plotting against the security of the State." He was transferred to the National Penitentiary on October 21 and was subsequently granted a provisional release on November 29, pending completion of the investigation of the charges against him.

Prosper Avril, former general and head of the military government from 1988 to 1990, escaped from the National Penitentiary on February 29 and had not been rearrested at year's end.

There were no developments in the pending trials of former Army officers Ibert Blanc, Rosalvo Bastia, and Pastor Ceriphin Franck, who were arrested without charges in February 2003 and later accused of conspiring against the security of the State.

Prolonged pretrial detention remained a serious problem; however, discrepancies in HNP documentation made it

impossible to determine what percentage of prisoners were in pretrial detention.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, in practice, the judiciary was subject to significant influence by the executive and legislative branches. Years of extensive corruption and governmental neglect left the poorly organized judicial system largely moribund. Judges assigned to politically sensitive cases complained about interference from the executive branch. In the aftermath of the violence surrounding President Aristide's departure, the judicial system was nonfunctional for several months. The judicial system gradually reassembled itself in the spring, after the establishment of the IGOH and the installation of a Minister of Justice, but it remained weak with limited capacity to carry out normal judicial activities.

At the lowest level of the justice system, justices of the peace issue warrants, adjudicate minor infractions, mediate cases, take depositions, and refer cases to prosecutors or higher judicial officials. Investigating magistrates and public prosecutors cooperate in the development of more serious cases, which are tried by the judges of the first instance courts. Thirty appeals court judges hear cases referred from the first instance courts, and the 11-member Court of Cassation, the country's highest court, addresses questions of procedure and constitutionality. In Port-au-Prince, seven judges sit on a special labor court with jurisdiction over labor disputes, but in the provinces, courts of first instance adjudicate such cases.

The judicial apparatus follows a civil law system based on the Napoleonic Code; the Criminal Code dates from 1832, although it has been amended in some instances. The Constitution provides for the right to a fair public trial; however, this right was abridged widely in practice. The Constitution also expressly denies police and judicial authorities the right to interrogate suspects unless legal counsel or a representative of the suspect's choice are present or they waive this right; this right also was abridged in practice. While trials are public, most accused persons could not afford legal counsel for interrogation or trial, and the law does not require that the Government provide legal representation. Despite the efforts of local human rights groups and the international community to provide free legal aid, many interrogations occurred without presence of counsel. However, some defendants had access to counsel during trials. The Constitution provides defendants with a presumption of innocence and the right to be present at trial, to confront witnesses against them, and to present witnesses and evidence in their own behalf; however, in practice, corrupt and uneducated judges frequently denied defendants these rights.

Systemic problems including under funding and a shortage of adequately trained and qualified justices of the peace, judges, and prosecutors created a huge backlog of criminal cases, with many detainees waiting months or in pretrial detention for a court date (see Section 1.d.). There was no legal redress for prolonged pretrial detention following acquittal or dismissal of charges.

In most regions, judges lacked the basic resources to perform their duties. Professional competence sometimes was lacking as well. The qualifying yearlong course at the Magistrates' school requires no previous legal training. Judges increasingly conducted legal proceedings exclusively in Creole rather than French, but language remained a significant barrier to full access to the judicial system (see Section 5). UNDP, supported by the Government, provided additional training for many segments of the judicial system, including new judges and attorneys.

On March 31, an assailant beat and berated Judge Napela Saintil for having convicted (in absentia) Louis-Jodel Chamblain for the latter's role in the 1994 Raboteau massacre. Saintil identified his assailant as Leon LeBlanc, a neighbor who was arrested on April 3 and remained in prison at year's end.

The Constitution sets varying tenure periods for judges above the level of justice of the peace.

The Code of Criminal Procedure does not assign clear responsibility to investigate crimes, dividing the authority among police, justices of the peace, prosecutors, and investigative magistrates. Examining magistrates often received files that were empty or missing police reports. Autopsies were conducted rarely, and autopsy reports seldom were issued. The Code provides for 2 criminal court sessions ("assises") per year in each of the 15 first instance jurisdictions for all major crimes requiring a jury trial; each session generally lasts for 2 weeks. Criminal assizes in Port au Prince have met once a year since 1998.

During the first criminal assize held under the IGOH on August 16, former paramilitary leader Louis-Jodel Chamblain and former Port-au-Prince police chief Jackson Joanis stood trial on charges stemming from their convictions in absentia for the death of businessman and Lavalas supporter Antoine Izmery in 1995. Chamblain fled to the Dominican Republic to avoid prosecution and returned during February as a leader of the armed rebellion against former President Aristide. On April 22, he surrendered to police. Joanis escaped from prison during the

events of February 29 but on August 9, surrendered to the police. Under the law, their voluntary surrender to the police cancelled their convictions and entitled them to a retrial.

On August 17, the Criminal Court of Port-au-Prince acquitted Chamblain and Joanis. The poor quality of the State's case due to lack of adequate preparation, a dearth of evidence, and an absence of key witnesses marred the retrial; however, at year's end, Chamblain and Joanis remained in custody to face separate charges for their alleged roles in other human rights violations, notably the 1994 Raboteau massacre (Chamblain) and the 1994 murder of Father Jean-Marie Vincent (Joanis). The timing of the trial, the verdict, and the subsequent threat of a lawsuit to harass human rights activists called into question the IGOH's commitment to respect for the rule of law and the strengthening of democratic institutions in the country (see Section 4).

Citizens deported to the country after completing prison sentences in foreign countries were detained until a family member agreed to take custody of them and their prison release order was processed, although there is no provision for such detention in the law. This generally took 1 to 2 months, but lasted as long as 4 months in unusual instances.

There were no reports of political prisoners. Some groups loyal to former President Aristide alleged that there were over 55 Lavalas political prisoners in jail for purely political reasons during the year. Three prominent Lavalas prisoners, Parliamentarians Yvon Feuille, Rudy Heriveaux, and activist Lesly Gustave were released on December 24; others such as former Prime Minister Yvon Neptune and a former Minister of Interior remained in jail at year's end, still awaiting investigation into charges against them (see Section 1.d.). The remaining Lavalas partisans still behind bars have been implicated in criminal or human rights abuses, but their cases remained mired in the judicial system where they awaited final determination.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such practices; however, police and other security force elements routinely conducted searches without warrants.

When the HNP arrested Father Gerard Jean-Juste, the police did not have the proper search or arrest warrants.

#### g. Use of Excessive Force and Violations of Humanitarian Law in Internal and External Conflicts

As the year began, the political impasse and violence stemming from the controversial results of the May 2000 legislative and local elections erupted into an armed revolt led by ex-soldiers, many of whom previously had been implicated in human rights abuses. In the days that preceded and succeeded Aristide's February 29 departure, conflict between anti-Aristide and pro-Aristide groups increased, with instances of abuse reported on both sides. On February 5, the anti-Aristide Artibonite Resistance Front seized control of the city of Gonaives. Throughout the remainder of February, other armed groups opposed to the Aristide Government, including members of the ex-FAd'H, seized control of numerous towns, mostly with little resistance from local police. On February 29, amid escalating violence between government forces, rebel groups, and pro-Aristide paramilitaries armed by the Aristide Government, President Aristide submitted his resignation and departed the country. Following Aristide's departure, power vacuums developed in many provincial cities and rural towns, such as Cap Haitien, Hinche, and Petit-Goave, which lacked sufficient governmental security presence. In many of these places, heavily armed ex-FAd'H and former FRAPH members moved in to fill this void. Their activities produced credible reports of extrajudicial killings and retribution killings of Lavalas partisans throughout the year. Pro-Lavalas partisans also were implicated in violence and numerous killings in Port-au-Prince, including of police officers. Members of the HNP continued to commit extrajudicial killings. At year's end, IGOH authority largely was limited to central Port-au-Prince, with pro-Aristide groups in control of many of the Port-au-Prince slums, and anti-Aristide rebels in control of many towns in the countryside.

On January 7, members of Lavalas popular organizations (OPs) attacked an anti-Aristide demonstration organized by State University students and the Democratic Platform in Port-au-Prince. After the demonstration was dispersed, armed civilians patrolled the city shooting in various directions and hindered demonstrators from returning home. During the violence, three demonstrators were killed, and several dozen persons were injured.

On January 11, an unknown assailant shot and killed a pro-Lavalas demonstrator nicknamed "Sonson," during an anti-Aristide demonstration in the provincial town of Miragoane. In response to the killing, other pro-Lavalas demonstrators set fire to seven private homes, cars, and businesses owned by opposition members. The crowd then attempted to burn opposition member Maxeau Gabriel (who survived the attack) and another person while in the hospital. Gabriel escaped from the hospital and fled to Port-au-Prince for medical attention.

From February 9-29, large-scale politically motivated violence occurred in St. Marc between members of the pro-Aristide group Bale Wouze ("clean sweep") and the opposition-affiliated group Assembly of Militants for the Commune of St. Marc (RAMICOS). On February 11, members of the HNP's CIMO unit along with heavily armed civilians from Bale Wouze laid siege to inhabitants of RAMICOS's neighborhood stronghold La Syrie, resulting in summary executions, kidnappings, torture, and other acts. According to the victim's assistance group for the residents of La Syrie, more than 50 persons were killed or reported missing, and several dozen houses either were ransacked and partially destroyed or burned.

Residents of La Syrie claimed that on February 9, then-Prime Minister Yvon Neptune sparked the violence during a visit to St. Marc. The IGOH subsequently accused Neptune of being the intellectual author of the events. On June 27, Neptune surrendered to police and was charged with "ordering and participating in the massacre against the population of St. Marc" and for being responsible for "the burning of numerous homes in St. Marc during the month of February." He remained in the National Penitentiary awaiting trial at year's end (see Section 1.d.).

In the period of violence and instability that followed Aristide's February 29 departure, the Institute for Justice and Democracy in Haiti documented a number of cases of reprisals against persons associated with the Aristide government.

On March 2, Lavalas activist Andre Edward was shot twice in the back and killed on his way home.

On March 7, Francillon Auguste, a member of the Aristide Foundation for Democracy, was severely beaten and later died of his injuries.

In March, unknown assailants shot and killed 18-year-old Cassie Auguste outside of Gonaives. Witnesses and family members attributed Cassie's killing to a presumed association with pro-Lavalas chimeres, based on his dreadlock hairstyle, by local anti-Lavalas partisans. The authorities had made no arrests for the killing by year's end.

On April 4 and 5, two brothers and activists of a pro-Lavalas popular organization were kidnapped by a group of armed men and reportedly killed.

In the period before, during, and in the immediate aftermath of former President Aristide's resignation, there were numerous accounts of attacks on, and killings of, members of the media by both pro- and anti-Aristide groups (see Section 2.a).

From September 30 through November, pro-Aristide partisans in Port-au-Prince launched a campaign of destabilization and violence known as "Operation Baghdad" (see Section 2.b.). This campaign included kidnapping, decapitation and burning of police officers and civilians, indiscriminate shooting at bystanders such as taxi drivers, students, parents and small merchants, and the destruction and incineration of public and private property. The violence prevented the normal functioning of schools, public markets, the seaport, and the justice system in Port-au-Prince for several weeks. The violence sporadically interrupted the delivery of humanitarian goods to the victims of Hurricane Jeanne in and around Gonaives. The armed groups responsible for the campaign claimed affiliation with the Lavalas party and demanded the return of former President Aristide. Most groups originated in populist, pro-Aristide areas of Bel Air, Martissant, La Saline, and Lower Delmas.

From October 1 to 26, the public morgue of the state university hospital registered 127 gunshot-inflicted injuries and 63 deaths. Most of the injured came from the Martissant, La Saline, and Lower Delmas areas while the deceased originated from Fort National, Bel Air, Cite Soleil, and Carrefour.

A police officer was killed on September 30 during the pro-Lavalas demonstration that sparked the violence.

On October 1, the bodies of two other police officers, Jean Jodelere and Jimmy Charles, who were kidnapped on September 28, were discovered.

On October 26, 13 young persons were summarily executed in the Fort National area of Port-au-Prince. Many witnesses attributed the killings to the HNP; however, it was not possible to determine responsibility for the act. Although accounts vary, several witnesses claimed that 5 hooded men dressed in black, driving an HNP vehicle without license plates, appeared on the scene, entered a house known to sell drugs, and shot the 13 persons inside of the house. The Prime Minister and chief of police categorically rejected any police involvement in the crime; however, two active-duty police officers were arrested as the police investigation continued at year's end.



On November 3, police chief of Port-au-Prince's fire brigade, Louis Dieufene, was shot and killed on his way home from work in the Poste Marchand area of the capital. The HNP claimed that the killing was carried out by pro-Aristide partisans who were acting out against the IGOH.

In response to the violence that began on September 30, the HNP conducted sweeps of heavily pro-Aristide areas of Port-au-Prince in search of the perpetrators. Many arrests were conducted without warrants, and suspects were held in prolonged detention without seeing a judge (see section 1.d.). From October 7-13, 171 persons were rounded up and questioned by police; some were released shortly after questioning while others suspected of having direct involvement in the violence were detained. Press reports claimed that from September 30 through early November, over 100 persons were killed in the violence.

The MIF, present from the beginning of March until the end of May, killed six persons. According to the MIF, the use of force in all instances was necessary to protect lives.

On March 9, MIF forces shot and killed two persons near the residence of then-Prime Minister Yvon Neptune. A MIF spokesperson stated that the forces returned fire on gunmen who were shooting from a nearby rooftop.

On March 12, while patrolling the pro-Aristide district of Bel-Air, MIF forces reportedly killed at least two men during an exchange of gunfire.

On December 14, MINUSTAH conducted an operation in Cite Soleil to help the HNP reestablish a presence and to provide order to the capital's largest slum. There were no reported civilian deaths attributed to MINUSTAH forces.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Several times during the year, the Government publicly expressed support for free expression; however, before President Aristide's departure, there were several documented attacks on members of the press. Print and electronic media freely criticized the Government and opposition. However, in practice most media admitted to some form of self-censorship to avoid offending sponsors or the politically influential. The Government did not restrict academic freedom.

There were three French-language newspapers in the country. The newspapers had a combined circulation of less than 20,000 readers. The former government's L'Union was a government-run newspaper whose editor was the Secretary of State for Communication; however, in May, the IGOH's Minister of Culture and Communication, Magali Comeau-Denis, closed the newspaper. Some irregularly printed papers frequently criticized IGOH policies and strongly supported the Lavalas regime. There was virtually no Creole-language press. Several weeklies and monthlies produced by the foreign-based Diaspora, circulated in Port-au-Prince.

With a literacy rate of approximately 52-60 percent and limited access to television, the most important medium was radio, especially stations broadcasting in Creole. The 307 radio stations carried a mix of music, news, and talk show programs that many citizens regarded as their only opportunity to speak out on a variety of political, social, and economic issues. At least 133 unlicensed radio stations were in operation. There were 50 community radio stations and 20 radio-televisions. Uncensored foreign satellite and cable broadcasts were available but limited in impact because most citizens could not afford televisions. The few stations carrying news or opinion freely broadcasted a wide range of political viewpoints.

Although most radio stations and other forms of telecommunication nominally were independent, they were subject to a 1997 law designating the State as the sole owner and proprietor of the airwaves. The State leases broadcast rights to private enterprises, retaining preemption rights in the event of a national emergency, including natural disasters. The Government did not exercise this right in practice.

On February 18, government spokesmen and Lavalas OP leaders issued threats to the media, specifically mentioning five key media targets: Radio stations Vision 2000, Caraibe FM, Radio Kiskeya, Radio Metropole, and the television station Tele-Haiti.

During the year, pro-President Aristide and Ex-FAd'H members attacked and, in some cases, killed members of the media.

In February, threats and harassment by pro-Lavalas supporters forced Radio Maxima in Cap Haitian also to close after its Director, Jean Robert Lalane, was shot and injured.

On February 5, Lavalas gang members beat Yves Bastien for broadcasting an interview with Roger Binry, who implicated government officials Jean Claude Jean Baptiste and Simson Liberus in the January 13 sabotage of the radio and television station broadcasting equipment in Boutilliers.

On February 27, pro-government gangs and partisans of former Lavalas Deputy Nawoon Marcellus burned the Northern branch of Radio Vision 2000 in Cap Haitian and sabotaged its Port-au-Prince branch. Those responsible remained at large at year's end.

On March 1, Radio Solidarite stopped broadcasting news after receiving threatening telephone calls; there was no investigation into the threats, and broadcasts resumed on April 6.

In early March, an anti-Aristide armed group reportedly shot at the home of Elysee Sincere, a correspondent for Radio Vision 2000 in the city of Petit-Goave. Sincere had filed a report that two groups were fighting for control of the town. The attackers burned his car and injured a relative of his.

The men in jail for the killings of two journalists, Brignol Lindor and Jean Dominique, escaped on February 29. In August, the police rearrested Dynsley Millien and Jeudi-Jean Daniel, two of those charged with Dominique's death. Phillippe Markington, the other person charged in Dominique's death, remained at large at year's end. In March, police arrested Port-au-Prince deputy mayor Harold Severe and security agent Rouspide Petion for alleged involvement in the slaying. On July 1, the Supreme Court rejected an appeal by Daniel, Millien, and Markington. The Court's rejection meant that a new examining judge could be named to conduct another investigation.

The Government did not limit access to the Internet.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly; however, former President Aristide's government's increased repression of planned events and periodic prohibition of demonstrations ignored that freedom. Although some organizations were able to exercise this right without hindrance throughout the year, numerous violations frequently occurred in the capital as well as in the provinces in the first 2 months of the year. Authorities frequently failed to provide police protection for opposition parties, student groups, and women's groups conducting peaceful demonstrations. Authorities often transported pro-Aristide supporters, armed and unarmed, to announced opposition events and failed to arrest them for throwing rocks or bottles at the demonstrators. The IGOH generally respected the right of citizens to peacefully demonstrate; however, the HNP sometimes used force to control violent demonstrations (see Section 1.g.).

Using tear gas and firing into the air, members of the HNP's riot control unit dispersed a January 1 demonstration organized by the opposition's Democratic Platform party and civil society.

On January 21, the HNP stopped students from holding an anti-government demonstration by firing live ammunition into the air and lobbing tear gas grenades into the group. The students were never able to get their demonstration started; however, across town in Delmas, pro-Aristide demonstrators marched without hindrance. The crowd eventually made their way to the National Palace where police allowed them past street barricades and up to the Palace gates where they reportedly met with President Aristide.

On January 27, the HNP banned all street demonstrations; however, opposition groups defied the ban and continued to demonstrate.

Many students who participated in the anti-Aristide student demonstrations in December 2003 reported threats during the year from police officers and gang members who collaborated with the police. The students and their families became targets of harassment that prompted some students to leave their homes and to go into hiding.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. The Penal Code requires prior government approval for any association of more than 20 persons that seeks tax benefits and official recognition from the Government.

#### c. Freedom of Religion

The Constitution provides for the right to practice all religions and faiths, provided that practice does not disturb law and order, and the Government generally respected this right in practice.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

#### d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits the involuntary exile of citizens, and there were no reports of its use. During the year, former Aristide government officials often imposed internal and external exile upon themselves and their families for fear of retaliation by rebel groups or former military members (see Section 1.g.).

An unknown number of undocumented migrants left the country to seek better economic opportunities. The Government's National Migration Office (ONM) was responsible for assisting citizens repatriated from other countries and frequently provided small sums of money to repatriated migrants for transportation. During the year, the ONM assisted 3,706 repatriated citizens.

The law provides for the granting of refugee status or asylum in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution, but did not routinely grant refugee status or asylum.

In March, the IGOH imposed a foreign travel ban on former Lavalas administration and police officials. The list included the names of 61 former officials accused of human rights violations and other crimes. Human rights groups and the international community criticized the ban, and on September 30, the Government lifted the travel restriction for all individuals without charges pending against them.

#### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

In practice, the political system changed significantly following President Aristide's February 29 resignation and departure from the country.

Boniface Alexandre, President (Chief Justice) of the Supreme Court, assumed office as interim President in accordance with the Constitution. On recommendation from the Council of Eminent Persons, who had been chosen by a Tripartite Commission including representatives of FL, the Democratic Platform, and the international community, the President chose Gerard Latortue as interim Prime Minister.

On April 4, representatives of the IGOH, leaders of CD, the Group of 184, and at least one branch of the "non-aligned" parties agreed on a transition accord outlining the IGOH's mandate and committing it to organize elections in 2005. No representative of FL participated in the negotiations or signed the document, but the President's Chief of Staff announced that the document would remain open for all parties, including Lavalas, to sign. At year's end, FL leaders had not signed the transition accord, although some Lavalas representatives endorsed the IGOH.

To implement the commitment to hold elections in 2005, the Government agreed to appoint a nine-person Provisional Electoral Council (CEP), with representatives from several parties including FL. When FL refused to nominate its representative, the Government appointed eight members; after several weeks, it appointed a ninth member to fill the FL slot. The CEP proceeded with its mandate and announced that municipal elections would be held on October 9, 2005 and the first round of legislative and presidential elections on November 13, 2005.

At year's end, many Lavalas members and foreign and domestic supporters charged that the IGOH had been pursuing a strategy designed to prevent FL from participating in the electoral process. Some groups alleged that more than 100 members of the FL had been imprisoned illegally. The IGOH responded that it had only detained those members of FL who had been accused of committing crimes. Three FL partisans were arrested in October for their alleged role in planning attacks during Operation Baghdad. On December 24, the IGOH released the FL members while the investigation into their case continued; however, Yvon Neptune, the former Prime Minister, remained imprisoned at year's end on charges related to the killings in La Syrie.

Transparency International noted that the country was extremely corrupt, and there was a widespread public perception of corruption in all branches of government.

The monetary deposit required of female candidates for political office (if sponsored by a recognized party) is one-half that required of male candidates. Three of the IGOH's 17 cabinet ministers were women.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The IGOH cooperated with the various human rights observation missions and generally acknowledged their views but lacked the capacity to implement their recommendations. The Government permitted special missions and the continued presence of U.N. bodies and other international organizations such as the ICRC, the U.N. Independent Expert on Human Rights, the UNDP, the IACHR, and the Organization of American States' Special Mission's human rights office. However, threats, intimidation, and harassment from suspected human rights abusers and other sources against domestic NGOs continued during the year.

Based on a recommendation from the U.N. Independent Expert on Human Rights, in March, a representative from the office of the U.N. High Commissioner for Human Rights (UNHCHR) conducted a 6-month assessment mission on the possibility of opening a permanent UNHCHR office in the country and concluded that such an office should be opened. The U.N. integrated an UNHCHR element into the peacekeeping force structure that included guidance and administration by an UNHCHR representative.

From September 1-3, IACHR conducted an on-site visit to the country at the request of the IGOH. Based on their meetings with government officials, including the HNP Director General and the Minister of Justice, U.N. representatives, and local human rights organizations, the IACHR delegation concluded that the security situation in the provinces and the reemergence of armed groups who attempted to control those areas; the weak state of the administration of justice and the ongoing problem of impunity; violence against individuals based on their affiliation, perceived or real, with former President Aristide and his party; and rape of women and girls by armed groups meant that the basic rights and freedoms of citizens remained weak and imperiled. The Commission urged the IGOH to rectify the deficiencies and to make the protection of human rights a central component of the Government's work.

At the national and international levels, human rights organizations were active and effective in monitoring human rights issues, meeting frequently with government officials. Human rights organizations, including the Platform of Haitian Human Rights Organizations, the NCHR, the Lawyers' Committee for the Respect of Individual Rights (CARLI), the Ecumenical Center of Human Rights, and the Catholic Bishops' National Commission on Justice and Peace, made frequent media appearances and published objective reports on violations. Human rights organizations continued to focus on issues that were persistent problems in the country, including prison conditions, the widespread lack of health facilities, and impunity for criminals. All reported receiving threats as a result of their work.

On February 6, human rights activist Kettly Julien of the Mobile Institute for Democracy Education and former regional HNP Director for the Artibonite Edouard Petit-Homme were arrested and held for a week on charges of "plotting against the security of the State." On February 10, a judge released Julien but Petit-Homme remained in jail until prison doors were opened releasing prisoners around the country in the days following February 29.

On March 24, a substitute justice of the peace for the Delmas district of Port-au-Prince, accompanied by several men, arrived at CARLI's office and threatened to kill the staff because CARLI listed the judge on its monthly hotline list of human rights abusers. The threat was never carried out, but CARLI reported other incidents of harassment concerning their hotline reports.

In June, local human rights activists reported a decline in the number of human rights violations throughout the country, while noting that the situation in the provinces remained tenuous due to lack of an effective governmental or police presence.

In September, three members of the jury for the Chamblian/Joanis trial filed defamation of character charges against three members of local human rights organizations, Viles Alizar of NCHR, Renan Hedouville of CARLI, and Eliphete Saint-Pierre and Maxime Rony of the Platform of Human Rights Organizations for allegedly accusing jurors of being FRAPH sympathizers and therefore incapable of rendering a decision against the defendants (see Section 1.e.). The human rights groups viewed the lawsuits as government-condoned harassment. The judge later dropped

the charges for insufficient evidence.

The Office of the Protector of Citizens (OPC), an ombudsman-like office provided for by the Constitution, received complaints of abuse at all levels of government. The Government did not directly impede OPC investigations but did not always respond to its requests for information. Relations between the OPC and major human rights organizations such as the Platform for Human Rights and CARLI continued to be positive. Budgetary problems limited the OPC to four employed investigators, which hindered its ability to investigate human rights abuses.

The Parliament's Justice and Human Rights Committee did not have a high profile and focused largely on judicial issues.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution does not specifically prohibit discrimination on the grounds of race, sex, disability, language, or social status. It does provide for equal working conditions regardless of sex, beliefs, or marital status. However, there was no effective governmental mechanism to administer or enforce these provisions.

#### Women

The law provides penalties for rape and domestic violence against women. The degree of penalty correlates to the severity of the rape and the criminal court judge must decide on the actual penalty; however, the Government did not enforce these provisions adequately. According to women's rights groups and human rights organizations, rape and other abuses against women were commonplace and increased, both within and outside marriage. Women's shelters and organizations reported that local armed thugs frequently raped and harassed girls and women in the slums such as Cite Soleil and Martissant. Police authorities rarely arrested the perpetrators or investigated the incidents, and the victims sometimes suffered further harassment in retaliation. In April, one woman told AI delegates that she had received threats from a police officer who had been charged along with four other persons with raping her but had escaped from prison on February 29. In October, press reports quoted a representative from the CARLI that in August, 25 cases of rape by ex-soldiers had been reported. The Haitian Group for the Study of Karposi's Syndrome and Opportunistic Infections reported that from July to September, 81 women came for treatment after having been raped. The majority of assaults took place in Port-au-Prince. There were no government sponsored programs for victims of violence. The Criminal Code excuses a husband who kills his wife or her partner upon catching them in the act of adultery in his home, but a wife who kills her husband under similar circumstances is not excused.

Prostitution was illegal; however, it remained a problem.

The law does not specifically prohibit sexual harassment, although the Labor Code states that men and women have the same rights and obligations. Sexual harassment of female workers was a problem, especially in the assembly sector (see Section 6.b.).

Women did not enjoy the same social and economic status as men. In some social strata, tradition limited women's roles. A majority of peasant women remained in traditional occupations of farming, marketing, and domestic labor. Very poor female heads of household in urban areas also often had limited employment opportunities, such as domestic labor and sales. Laws governing child support recognize the widespread practice of multiple father families but rarely were enforced. Female employees in private industry or service jobs, including government jobs, seldom were promoted to supervisory positions. However, well educated women have occupied prominent positions in both the private and public sector in the past several years.

The Ministry of Women's Affairs is charged with promoting and defending the rights of women and ensuring that they attain an equal status in society, but had few resources at its disposal and was able to accomplish little in this regard.

Domestic women's rights groups were small, localized, and received little publicity.

#### Children

Governmental agencies and programs to promote children's rights and welfare existed, but the Government lacked the capacity to adequately support or enforce existing mechanisms. Malnutrition was a major problem. According to the U.N., approximately 42 percent of all children under 5 were chronically malnourished. In December, UNICEF

reported that 60 percent of rural households and 32 percent of urban households suffered from chronic food insecurity. The Government has a school nutrition program, administered through the Office of National Development and supported by foreign donors. Through this program, health clinics and dispensaries distributed donated food to children.

The Constitution and the law provide for free, universal, and compulsory primary education. However, in practice, most rural families did not have access to public schools. The costs of school fees, books, materials, and uniforms, even in public schools, were prohibitive for most families, and an estimated 90 percent of schools were private. Schools were dilapidated and understaffed. According to the Government, 40 percent of children never attend school. Of those who do, less than 15 percent graduate from secondary school. The Ministry of Education estimated primary school enrollment at 65 percent. Poorer families sometimes rationed education money to pay school fees only for male children.

Child abuse was a problem. Government-sponsored radio commercials urged parents not to abuse their children physically or mentally. There was some anecdotal evidence that in very poor families, caretakers deprive the youngest children of food to feed older, income generating children.

The law prohibits corporal punishment of children, and all schools must post clearly their disciplinary policies. The law also called for the establishment of a commission to determine appropriate school disciplinary measures. In practice, corporal punishment was accepted as a form of discipline.

There were reports that children were trafficked within the country and forced to work as domestic servants (see Section 5, Trafficking).

Port au Prince's large population of street children included many domestic servants, who were dismissed from or fled employers' homes (see Section 5, Trafficking). The Ministry of Social Affairs provided some assistance to street children.

On January 24, HNP officers shot and killed orphan Frantzy Pierre in downtown Port-au-Prince.

On January 27, an orphaned street vendor named Erick Voltaire was shot and killed by armed individuals who were suspected of having links to the Port-au-Prince police station.

At the end of October, UNICEF issued a statement denouncing a campaign of violence targeting street children. On October 27, the bodies of four street children, two decapitated, were discovered in the public morgue. There were reports that unknown armed assailants roamed the capital and used the street children for target practice.

On November 14, Wilfort Ferdinand "Ti Will," former member of the Cannibal Army and current member of the Reconstruction Front of the Artibonite, shot and killed 6-year-old Francesca Gabriel in Gonaives during a lovers' dispute. He had not been brought to justice by year's end.

The Ministry of Labor and Social Affairs' hotline for child abuse victims received more than 720 calls leading to action on 158 cases, either through initiation of criminal action against an abusive adult or removal of the child from an abusive situation. Eighty-three percent of the children involved in these cases were in domestic service, many were under the age of 12, and many reported abuses such as beatings, rape, and malnutrition. The work of the hotline was hampered by destruction of The Ministry of Labor and Social Affairs' Social Welfare and Research Institute's (IBESR) offices in the lawlessness following President Aristide's departure, but IBESR did retain the four additional monitors it hired in August 2003 to rescue children believed to be working in forced labor situations. Government officials placed rescued victims in shelters and in the care of local NGOs, such as Foyer Maurice Sixto, a children's shelter located in Port-au-Prince.

Several international and local NGOs worked on children's issues. The Pan-American Development Foundation conducted training programs around the country for government officials and for persons who worked with children. UNICEF and Save the Children Canada and UK, in conjunction with local NGOs such as the Haitian Coalition for the Defense of the Rights of the Child (COHADDE), promoted children's rights by conducting studies of children's issues, most notably a study on child domestic labor (see Section 5, Trafficking), and awareness raising activities in the country.

Trafficking in Persons

The law prohibits trafficking in women and children; however, internal trafficking of children for domestic labor remained a problem, and the country also was a source for trafficked persons to the Dominican Republic, the United States, Europe (mainly France), and Canada.

There were no penalties for trafficking in persons. The Government acknowledged the problem of internal trafficking and took steps to address it, despite the political crisis early in the year. The HNP's Brigade for the Protection of Minors (BPM) was created in May 2003 as a special unit under the HNP charged with investigating cases of child trafficking and monitoring movement of children across the border with the Dominican Republic. The BPM was functional; however, resource issues remained a barrier to its operational capacity. Government officials at local and national levels were trained on the legal framework for children's rights and methods of intervention to prevent and punish acts of child domesticity (restaveks) and trafficking. Interim President Boniface Alexandre denounced the restavek practice and called on his cabinet to take a more proactive role in the fight against trafficking in persons when he addressed a rally in commemoration of International Children's Day on May 13.

In May 2003, the results of a joint governmental-NGO funded study, which covered the fiscal years 2001-02, noted that 173,000 children (8.2 percent) between the ages of 5 and 17 years, worked as restaveks. Labor laws require anyone who has a child domestic in their employ to obtain a permit from IBESR and to ensure the overall welfare of the child until they reach 15 years of age. Additionally, the law requires that restaveks 15 years of age and older be paid not less than one half the amount paid to an adult servant hired to perform similar work, in addition to room and board. To avoid this obligation, employers dismissed many restaveks before they reached that age.

The results of the most recent study of trafficking across the border conducted by UNICEF in August 2002 reported that between 2,000 and 3,000 children were trafficked to the Dominican Republic each year.

Rural families continued to send young children, particularly girls, to more affluent city dwellers to serve as restaveks in exchange for that child's room and board. While some restaveks received adequate care, including an education, the Ministry of Social Affairs believed that many employers compelled the children to work long hours, provided them little nourishment, and frequently abused them (see Section 5, Children). The majority of restaveks worked in low-income homes where conditions, food, and education for nonbiological children were not priorities.

In August 2003, the Ministry of Foreign Affairs approved the creation of three additional consulates along the Dominican border, which were charged with monitoring the movement of children across the border. The Ministry of the Interior also reinforced agents at border control points at the three international airports to watch for children who might be traveling unaccompanied or without their parents. The Ministry of Justice continued to circulate memorandums to magistrates around the country in an awareness-heightening campaign on the anti-trafficking law and on child labor laws. To address some of the social aspects of the restavek practice, the Government provided a subsidy of 70 percent for educational supplies, including books and uniforms. The Government also called on employers of child domestics to release them from their duties in the afternoon to allow them the opportunity to attend school.

#### Persons with Disabilities

There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The Constitution provides that persons with disabilities shall have the means to ensure their autonomy, education, and independence. However, there was no legislation to implement these constitutional provisions or to mandate provision of access to buildings for persons with disabilities.

#### Other Societal Abuses and Discrimination

Societal discrimination occurred against persons with HIV/AIDS, particularly women, but educational programs and HIV/AIDS activists attempted to change that stigma.

On June 29, a woman and her two children, ages four and five, were thrown out of a hospital in Jacmel after a medical test revealed that all three were HIV-positive.

#### Section 6 Worker Rights

##### a. The Right of Association

The Constitution and the Labor Code provide for the right of association, which was generally respected in practice;

however, the Labor Code dates from earlier governments and is far more restrictive. For instance, there is no legislation protecting the right of public employees to organize. The International Labor Organization (ILO) Committee of Experts commented on the need for the Government to recognize by law the right of public servants to organize. For legal recognition the law also requires that a union, which must have a minimum of 10 members, register with the Ministry of Labor and Social Affairs within 60 days of its formation. The law prohibits employers, management, and anyone who represents the interests of employers from joining a union. In theory, unions are independent of the Government and political parties. Nine principal labor federations represented approximately 5 percent of the labor force. Union membership decreased significantly, but unions remained active in the public sector.

#### b. The Right to Organize and Bargain Collectively

The Labor Code protects trade union organizing activities and stipulates fines for those who interfere with this right; however, in practice the Government made little effort to enforce the law.

High unemployment rates and anti-union sentiment among some factory workers and most employers limited the success of union organizing efforts.

Collective bargaining was nonexistent, and employers set wages unilaterally. The Labor Code does not distinguish between industries producing for the local market and those producing for export. Employees in the export-oriented assembly sector enjoyed better than average wages and benefits. However, frequent verbal abuse and intimidation of workers and organizers were problems in the assembly sector. Female workers in the assembly sector reported that some employers sexually harassed female workers with impunity. Women also reported that while most assembly sector workers were women, virtually all supervisors were men. Workers had access to labor courts established to resolve common labor-management disputes; however, the courts' judgments were not enforced. The courts function under the supervision of the Ministry of Labor and Social Affairs and adjudicate minor conflicts, but unions stated that the process was inefficient. Seven labor courts operated in Port-au-Prince, and in the provinces plaintiffs utilized municipal courts.

The Labor Code provides for the right to strike, and workers (with the exception of managers, administrators, other heads of establishments, and public utility service workers) exercised this right in practice. The Labor Code defines public utility service employees as essential workers who "cannot suspend their activities without causing serious harm to public health and security." There were few public sector strikes during the year.

There was one export processing zone (EPZ) located in Ouanaminthe, a town on the Dominican border. Legislation governing free trade zones provide that the Labor Code applies in the EPZs, and the Government signed an agreement with textile company Grupo M to build a production facility in a newly established free trade zone on the border near Ouanaminthe. In October 2003, the International Finance Corporation (IFC) approved a loan to the company. Its provisions stipulated a social compensation plan for farmers and landowners displaced by the project. The IFC called for independent investigations into allegations of Grupo M abuse of workers and union organizers. Nevertheless, Batay Ouvriye, a labor organization of peasant workers, strongly opposed the project.

Based on results from the IFC independent investigation, the IFC dispersed the \$20 million (720,000,000 Gourdes) loan to Grupo M on January 15, and Grupo M's factory in Ouanaminthe, known by its Creole acronym KODEVI (Company for Industrial Development), opened. The conditions of the loan stipulated that Grupo M sign an agreement to respect the rights of workers to organize themselves into a union, and the Society of KODEVI Workers of Ouanaminthe (SOKOWA) became the officially recognized union at the plant. Since early February, SOKOWA members complained of worker exploitation and mistreatment at the hands of Grupo M management. Rounds of strikes and violence by union members, with the support of Batay Ouvriye, were followed by a series of employee terminations by KODEVI throughout the summer. The lack of any governmental security presence in Ouanaminthe combined with the absence of a labor inspector from the Ministry of Labor and Social Affairs in the factory further complicated the situation and cost KODEVI a tee-shirt assembly contract. In May, Grupo M laid-off 843 employees from that module, reducing the workforce from 1,300 to 457. In August, the IFC intervened and proposed a binational mediation team. By year's end, there was some progress, although the mediation progress had yet to commence.

#### c. Prohibition of Forced or Compulsory Labor

The Labor Code prohibits forced or compulsory labor for adults and minors; however, the Government failed to enforce this law for children, who continued to be subjected to forced domestic labor as *restaveks* in urban households, sometimes under harsh conditions (see Section 5).



#### d. Prohibition of Child Labor and Minimum Age for Employment

The minimum employment age in all sectors is 15 years, with the exception of domestic service, for which the minimum is 12 years. There is also a legal provision for employment of children between the ages of 12 and 16 as apprentices. The Labor Code prohibits minors from working under dangerous conditions and prohibits night work in industrial enterprises for minors under 18. Fierce adult competition for jobs ensured child labor was not a factor in the industrial sector; however, children under the age of 15 commonly worked at informal sector jobs to supplement family income. Children also commonly worked with parents on small family farms, although the high unemployment rate among adults kept children from employment on commercial farms in significant numbers. Government agencies lacked the resources to enforce relevant laws and regulations effectively. According to COHADDE, children worked primarily as restaveks; however, some worked on the street as vendors or beggars, and some were involved in prostitution.

The Government has not ratified and does not adhere to ILO Convention 182 on elimination of the worst forms of child labor.

The Government designated IBESR to implement and enforce child labor laws and regulations. The Government has begun to place a high priority on the eradication of child domestic labor (see Section 5). Despite the Government's efforts, the budget for the Ministry remained inadequate to fund adequately programs to investigate exploitative child labor cases throughout the country.

The IBESR coordinated efforts with the Ministries of Justice, Education, and Foreign Affairs, as well as local and international agencies, to formulate and enforce child labor policies.

#### e. Acceptable Conditions of Work

The legal minimum daily wage, established in 1995 by the Tripartite Commission of Salaried Workers, whose six members were appointed by the President (two representatives each of labor, employers, and government), is approximately \$0.96 (36 gourdes). This wage did not provide a decent standard of living for a worker and family. Some workers were paid on a piece-rate basis and earned more than the minimum wage. The majority of citizens worked in the informal sector and subsistence agriculture, where minimum wage legislation does not apply and wages of \$0.40 (15 gourdes) a day were common. Many women worked as domestic employees, where minimum wage legislation also does not apply.

The Labor Code governs individual employment contracts. It sets the standard workday at 8 hours and the workweek at 48 hours, with 24 hours of rest on Sunday. However, HNP officers worked 12-hour shifts 6 days per week, in violation of the Labor Code. The Code also establishes minimum health and safety regulations. The industrial and assembly sectors largely observed these guidelines. However, the Ministry of Social Affairs did not enforce work hours or health and safety regulations.

There is no provision for the payment of overtime.

The assembly sector published a voluntary code of conduct in 1999, committing signatories to a number of measures designed to raise industry standards, including payment of the minimum wage and the prohibition of child labor. Employers in the assembly sector generally paid the minimum wage or higher. In this sector, working conditions were also generally better and there were no reports of child labor.

There were no formal data, but unions alleged that job-related injuries were prevalent in the construction industry and public works sectors. Although they have the legal right to do so, in practice, with more than 50 percent of the population unemployed, workers were not able to exercise the right to remove themselves from dangerous work situations without jeopardy to continued employment.